

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13256 of George B. Williams, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the use provisions (Section 3102) to use the first floor of the subject premises as a retail family gift and boutique shop in an R-2 District at the premises 3211 Martin Luther King, Jr. Avenue, S.E., (Square 5990, Lot 6).

HEARING DATE: June 11, 1980
DECISION DATE: July 2, 1980

FINDINGS OF FACT:

1. The subject property is located on the west side of Martin Luther King Jr. Avenue between Esther Place and Waclark Place, S.E. It is in an R-2 District.

2. The property is improved with a two story frame semi-detached dwelling which adjoins the premises at 3209 Martin Luther King Jr. Avenue to the north.

3. The bulk of Square 5990 is zoned R-2 and is developed with conforming residential uses. The northeast corner of the square along Martin Luther King Jr. Avenue at Esther Place is zoned C-2-A. This commercially zoned portion is developed with a fire station and a small grocery store. The C-2-A District extends north along Martin Luther King Jr. Avenue for several blocks.

4. There are single family dwellings located on both sides and to the rear of the subject property. Some of those dwellings are vacant.

5. The applicant testified that he is currently occupying the subject building as a single family dwelling.

6. The applicant proposes to operate a small boutique on the first floor of the building. Such a use is normally permitted only in a commercial district. The second floor of the building would be retained in residential use.

7. No major physical changes to the building would be made in order to accommodate the proposed retail use.

8. The applicant presented no evidence in the record to suggest that the property is exceptionally narrow or shallow or is affected by some exceptional topographical condition or other extraordinary or exceptional condition.

9. The applicant did not cite to the Board any hardship which he would incur if the Zoning Regulations were strictly applied and the application were denied.

10. The Office of Planning and Development, by memorandum dated June 9, 1980 and by testimony at the hearing, recommended that the application be denied. The OPD reported that "the property which is the subject of the application does not appear to exhibit any physical attributes which would warrant the grant of a use variance nor has the applicant indicated any unique circumstances or conditions which would suggest the necessity of a use variance in this case." The OPD noted that the property is nearly identical to adjoining and nearby property which is used in accordance with the requirements of the R-2 District. The OPD was of the opinion that the property can be used in conformity with the R-2 regulations. The Board agrees with the findings and conclusions of the OPD.

11. There was no report from Advisory Neighborhood Commission 8A.

12. There was no opposition to the application.

CONCLUSIONS OF LAW AND OPINION:

The Board concludes that the requested variance is a use variance the granting of which requires the showing of an undue hardship upon the owner arising out of some exceptional or unique condition of the property. The Board concludes that the applicant has demonstrated nothing unusual about the site, and has presented no evidence that strict application of the Regulations would constitute a hardship upon the owner. The Board concludes that the property reasonably can be used for a purpose permitted in the R-2 District. The Board therefore concludes that to permit commercial use of the premises would be contrary to the intent and purposes of the Zoning Regulations and would be of substantial detriment to the public good. It is therefore ORDERED that the application is DENIED.

VOTE: 4-0 (Connie Fortune, Charles R. Norris, Leonard L. McCants and William F. McIntosh to deny, Ruby B. McZier not voting, not having heard the case.)

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BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: Steven E. Sher *ES*
STEVEN E. SHER

FINAL DATE OF ORDER: 25 AUG 1980

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."